



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 12/27/2023

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Via ECF

The Honorable Robert W. Lehrburger
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007

December 12, 2023

Granted.

SO ORDERED:

12/27/2023


HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Re: Ware v. Brann, et al., Case No. 21 CV 2028 (DEH)(RWL)

Dear Magistrate Judge Lehrburger:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, attorney for Defendants in the above-captioned action. I write to respectfully request leave to file, under seal, documents in support of Defendant's motion for summary judgment, filed today, December 12, 2023.

In this action, Plaintiff alleges that his constitutional rights were violated while he was detained at the Vernon C. Bain Center ("VCBC"), a New York City Department of Correction ("DOC") facility. The Defendants in this action are now moving for summary judgment. In support of this motion, Defendants seek to rely upon Correctional Health Services records pertaining to Plaintiff's medical history. Defendants submit that these records are highly sensitive and confidential. *See, e.g., Offor v. Mercy Med. Ctr.*, 167 F. Supp. 3d 414, 445 (E.D.N.Y. 2016) (collecting cases) ("Courts in this Circuit have repeatedly held that information protected by HIPAA is not subject to a First Amendment or common-law right of access and thus have sealed docket entries and redacted documents that contain such information."); *Fox v. Poole*, 06CV148 (CONSENT), 2007 U.S. Dist. LEXIS 64779, at *38 (W.D.N.Y. Aug. 31, 2007) (ordering parties to file inmate medical record under seal). Accordingly, Defendants respectfully request leave to file "Exhibit B" and "Exhibit C" to the Declaration of David S. Thayer, which contain these medical records, under seal in order to protect Plaintiff's privacy and confidentiality interests.

I thank the Court for its consideration of this request.

Respectfully yours,

/s/ David S. Thayer

David S. Thayer
Assistant Corporation Counsel

cc. ***Via Mail***
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